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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,574	06/25/2003	Armin Ruck	964-030780	3328
28289	7590	05/18/2007		
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			EXAMINER CULBRETH, ERIC D	
			ART UNIT 3616	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/603,574	Applicant(s) RUCK, ARMIN	
	Examiner Eric Culbreth	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8,9,11-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8,9,11-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Approved Figure 2</u> |

DETAILED ACTION

Drawings

1. The drawings were received on 7/24/06. These drawings are now approved in view of the changes to the specification.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by English Patent 1,440,686 (of record, cited by applicant).

British '686 discloses an industrial truck as functionally recited (i.e., English '686 is an industrial truck inasmuch as the features recited in the body of the claim form an industrial truck) comprising a vehicle frame 22, a driver's station comprising at least one support structure 20 for floor plate 13, and at least one driver's seat 11, 12 fastened to intermediate frame 18, 23, 24, and at least one suspension element 30 at the front of frame, say, and at least one damping element 30 at the side of the frame, say, connecting the intermediate frame 18, 23, 24 with the vehicle frame 22, with one end of each suspension and damping element connected to the vehicle frame and the other end of each suspension and damping element connected to the intermediate frame (i.e., as broadly recited each strut 30 with springs inside isolates the driver from vibration at page 1, lines 33-36 and hence is a suspension element, but each strut 30 also reduces the effect of pitch and roll at page 1, lines 37-41 and hence is a damping element; the

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strut 30 at the front of the assembly is a suspension or damping element separate from a strut 30 at the side of the assembly, which alternatively is a damping or suspension element) (claim 1). Regarding claim 3, rods 33 and sleeves 34 are translation guide elements connecting the intermediate frame with the vehicle frame.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 4-5, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over English '686.

Although English '686 discloses the intermediate frame 18, 23, 24 as able to move in translation in more than one direction (i.e., vertical movement as well as tilt), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify English '686 to include translation in only the vertical direction, as case law has held that omission of an element and its function (i.e., the pivoting structure in parts 23 and 24 of English '686) is an obvious expedient if the remaining elements perform the same function as before (In re Karlson, 136 USPQ 184 (CCPA 1963)) and that subject is not patentable when the function is not desired and there is no showing of unexpected results flowing from such an omission (In re Wilson, 153 USPQ 740 (CCPA 1967))(claims 4-5). Coil springs in the land vehicle art such as springs 35, 36 are conventionally metal (claim 11). Regarding claims 13-15, the natural frequency of vibration ranged claimed as well as the decay of oscillation and the maximum amplitude

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are an obvious matter of design choice, as the specification gives no stated reason or particular purpose for the ranges or decay claimed, and the invention would appear to work just as well with similar ranges and amounts to those already known in the art (i.e., oscillation in a vehicle suspension is usually designed to decay within two or three oscillations).

6. Claims 6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over English '686 in view of UK Patent 2,288,770 (of record, cited by applicant).

UK '770 discloses guiding a roller in a slot at page 7, lines 1-4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify English '686 to include a roller in rod and sleeve arrangement of English '686 as taught by UK '770 in order to positively guide or drive members in the raising and lowering direction (UK '770, page 7, lines 1-4)(claim 6). In the combination, UK '770's driver's seat S and floor plate B (and the structure supporting the floor plate) are adjustable relative to adjacent structure (which would be the intermediate frame in the combination) such that the adjustment in height of the floor plate is coupled to a displacement in height of the driver's seat (claims 8-9).

7. Claims 12, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over English '686 in view of WO 91/04221 (of record, cited by applicant).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify English '686 to include the springs being hydraulic

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dampers as taught by WO '221 at 15 in order to conventionally damp the system using alternative equivalent structure in the art to coil springs (claim 12). Regarding claim 16, in the combination WO '221 discloses the industrial truck is on an unsuspended chassis (page 4, lines 6-9), and regarding claim 18, in the combination WO '221 teaches a "reach" truck in that it is a forklift truck that reaches for boxes such as box 5.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Eric Culbreth
Primary Examiner
Art Unit 3616

ec

Approved
EC
5/14/07

Fig. 2

